

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1573

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.118-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

- (1) the member dies after March 31, 1990;
- (2) the member has:
 - (A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;
 - (B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or
 - (C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:
 - (i) was at least sixty-five (65) years of age; and
 - (ii) died in service in a position covered by the teachers' retirement fund; and
- (3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly

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benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent is permanently and totally disabled (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent is no longer disabled (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this

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chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, **unless the surviving spouse or dependent is also a designated beneficiary.**

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited

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to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

- (1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and
- (2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.2-4-7, AS AMENDED BY P.L.246-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

~~(D)~~ If:

(i) the designated beneficiary dies while the member is receiving benefits; or

(ii) the member is receiving benefits, the member marries, either for the first time or following the death of the

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member's spouse, after the member's first benefit payment is made; and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under this subsection and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds ($2/3$) or one-half ($1/2$) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

(A) the total amount used in computing the annuity at the retirement date; minus

(B) the total annuity payments paid and due to the member before the member's death.

(c) A selection under subsection (b) may be made or revoked by the member on or before:

(1) the retirement date selected under section † of this chapter; or

(2) the date on which a retirement date is selected under section † of this chapter;

whichever is later.

(c) If:

(1) the designated beneficiary dies while the member is receiving benefits; or

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(2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c), a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this chapter; or
- (3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(~~d~~) (e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 21-6.1-5-17.

SECTION 3. IC 5-10.2-5-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1,



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2003, shall be increased by two percent (2%).

(b) The monthly amount of the increase described in subsection (a) payable to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) may not be less than five dollars (\$5).

(c) The increases specified in this section:

- (1) are based upon the date of the member's latest retirement or disability;
- (2) do not apply to benefits payable in a lump sum; and
- (3) are in addition to any other increase provided by law.

SECTION 4. IC 5-10.2-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34. (a) This section does not apply to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) whose creditable service was earned only as an elected official.

(b) In addition to any other cost of living increase provided under this chapter, the pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who was a retired member of the fund with at least ten (10) years of creditable service and was entitled to receive a monthly benefit on December 1, 2003, may not be less than one hundred eighty dollars (\$180).

(c) The increases specified in this section:

- (1) are based upon the date of the member's latest retirement or disability;
- (2) do not apply to benefits payable in a lump sum; and
- (3) are in addition to any other increase provided by law.

SECTION 5. IC 21-6.1-5-9, AS AMENDED BY P.L.195-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The first pension benefit payment after retirement shall be made not more than ninety (90) days after the completion and filing of the member's application for retirement benefits.

(b) After the first pension benefit payment, each person entitled to benefits shall receive the retirement benefits in installments payable by the tenth day of each month.

(c) The last retirement benefit payment must be prorated to terminate at the member's death.



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SECTION 6. [EFFECTIVE JULY 1, 2003] IC 21-6.1-5-9, as amended by this act, applies to retirement benefits payable by the Indiana state teachers' retirement fund after June 30, 2003.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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